

Time being 7:00 p.m. **June 24, 2013**, Paul Mullins opened the meeting of the Foxborough Board of Health, under the Open Meeting Laws of the State of Massachusetts. Paul Mullins-Chairman presiding, Paul Steeves-Vice-Chairman and Eric Arvedon-Clerk are present.

7:00 p.m. Eric Arvedon read the Public Hearing Notice which was posted in The Foxboro Reporter and on the Town of Foxborough website.

7:00 p.m. **Public Hearing – Tobacco Regulations – Marilyn Edge – Tobacco Coalition, Attorney Cheryl Sbarra, Massachusetts Association of Health Boards –** Ms. Edge came before the Board to discuss new tobacco regulations being written for the Town of Foxborough. Also in attendance for this hearing were Michael Lindley, Foxboro Shell, Malini Patel, Express Mini Mart, Richard Carrigg, Stadium Gulf.

The discussion started with the regulations on prohibiting smoking in workplaces and public places.

The Board wanted to know if they could incorporate the new regulations with the old making it one document. The Board felt that the tobacco establishments in Foxborough would be confused with two sets of regulations.

Ms. Edge stated there will be one regulation document for the Workplace regulations. If there is something from the 1997 regulations the Board specifically wanted to keep Attorney Sbarra will tell them if they can keep it.

Attorney Sbarra informed the Board that she had looked at Foxborough's current regulations and suggested incorporating the statewide workplace regulations which prohibits all confined space smoking. Attorney Sbarra further stated that the state regulations are the minimum standard each town has to comply with. Foxborough can add stronger regulations to this but not less than what the state has. The state regulations prohibit smoking in all workplaces.

Attorney Sbarra stated that there are many areas in the regulations that are now invalid pursuant to state law. What usually makes more sense is to rescind the law currently in effect and incorporate the state workplace law and then consider what the Board may want to go above and beyond.

Foxborough's current regulations combine the secondhand smoke regulations with the youth access regulations in order to make it easier for retailers. Most towns have separate regulations to make it easier for them to just show what retailers need to abide by.

Ms. Edge stated the changes to Foxborough's existing regulations are Section 4 - Smoking Prohibited - Subsections C and D were added.

Ms. Edge stated that smoking bars are adult only and that the intent is to ban smoking bars in Foxboro. This is a preemptive regulation to control this type of establishment before they even try to come to town.

The Board asked if they could just grant a permit or a variance on this. Attorney Sbarra stated that the Board could always amend the regulations at any time.

One of the rationales for banning smoking bars is a strict exemption you have to prove that 50% of your revenue comes from tobacco. This is tricky when it comes to enforcement. The hookahs have tips that need to be sterilized, etc., which brings up all kinds of health issues.

Attorney Sbarra stated that presently none of the towns in this area have a smoking bar yet, but that the potential is there.

Section 4(d) – Ms. Edge stated they added the other regulation for youth access. We are putting in e-cigarettes. This states that you can't smoke this product anywhere as the FDA does not know what the byproducts are in e-cigarettes as of yet.

Ms. Edge informed the Board that unless Foxborough has this in their regulations it would be perfectly legal. The other issue with that is there are no state regulations for sales to minors for this product.

Ms. Edge further stated that these two items are the only two changes in the 3-page document.

Eric Arvedon made a motion to adopt the regulations banning smoking in the workplace and public places effective August 1, 2013 and on that same date Eric Arvedon made a motion to rescind current Foxboro workplace regulations. Paul Steeves seconded the motion. All in favor, motion passed, 3: yes – 0: no.

Attorney Sbarra stated the regulations "Restricting the Sale of Tobacco Products and Nicotine Delivery Products" would rescind nicotine delivery products which are any products not approved by the FDA. The patch, gum, etc., are items that do not fall under this category. This is restricting the sale of nicotine delivery products to minors.

Tobacco Establishments would now get a permit to sell nicotine delivery products as well as tobacco products. This would make the products age restrictive and no further fee would be required.

This would also require two new signs to be posted in a retail establishment. At the Point of Sale establishments would need to post a sign of the 1-800-try-to-quit number. These are given to the retailers free of charge.

The second sign would be a sign stating that e-cigarettes or any cigarette product is illegal to sell to minors along with the state mandated sign.

There is no one sign that has all of this on it, they are all separate.

This is not required by the state but it would be required by Foxborough.

Section D(a) – Massachusetts General Laws, Chapter 270, Section 6, sign shall be posted conspicuously by the owner. The State requires as well as provides this sign.

Section D(b) & (c) – Signs disclosing current referral information about smoking cessation as well as the sale of nicotine delivery products to minors under 18 years of age is prohibited.

The Board asked Ms. Edge and Attorney Sbarra if these two sections could be put on one sign.

Ms. Edge explained that they could not, that one sign is a 3"x3" sticky square that needs to go on the back of the establishments cash registers and that the other sign is half of an 8 ½ x 11 piece of paper.

The establishments in the audience were worried about the size of all of these new signs and being able to properly display them they stated that they were running out of room.

Ms. Edge stated that they have standard stock signs from the State covering Section D(b). She did however state that the "We Card" program is not a state sanctioned program so the establishments could take those down if they are in need of space.

Ms. Edge told the Board that she would send them a clean copy of the regulations and a copy of what the sign would look like.

Section F - Prohibition of the Sale of Blunt Wraps. Attorney Sbarra explained that she knew the Board received a letter from NATO on this subject and the reason that blunt wraps are a concern in the tobacco control field is that if someone for example were rolling a joint, why also should they expose themselves to nicotine. It is just another nicotine device. Attorney Sbarra further explained that this product appeals to very young children because they come in flavors such as bubble gum, lemon, vanilla, etc. They are not products used by adults. Kids are using these in increasingly high percentages.

One of the Foxborough tobacco establishments stated that he has a clientele for this product and they buy it for legitimate reasons. It was also stated that he does not/will not carry bubble gum, lemon, etc., flavors that do appeal to minors.

The Board stated they are not out to destroy businesses and that they would like to hold off on this particular section for the moment. It was their opinion that if it was a paraphernalia issue perhaps it should be included in the same regulations as rolling papers, etc., and would speak with Police Chief O'Leary relative to this.

Section K – Non-Residential Roll-Your-Own Machines Ms. Edge stated that Foxborough does not have any of these machines in town at this time.

Ms. Edge further stated that all other sections of the new regulations are in the present Foxborough regulations and that they just needed an effective date from the Board.

The Board stated they would be willing to vote on all of the regulations this evening with blunt wraps being stricken at the present time.

Ms. Edge stated that they will change the effective date to August 1, 2013 and that any new permits will show the new changes. Any existing permits will be valid until the permit expires and that there will be no increase in fees.

The Board stated that every tobacco permit holder in the Town of Foxborough will get a copy of everything that was discussed here this evening.

Eric Arvedon made a motion to adopt regulations restricting the sale of tobacco products as written with the following exception: Remove Page 4, Section F - Prohibition of the Sale of Blunt Wraps and Section D – Tobacco and Nicotine delivery Product Sales to Minors Prohibited, Subsection (2c). The Board stated the required signage would be anywhere from 45"-48" and that these changes would take effect August 1, 2013. Paul Steeves seconded the motion. All in favor, motion passed, 3: yes – 0: no.

8:18 p.m. The Chairman declared the matter of the tobacco public hearing closed.

8:18 p.m. **Lawton's Farm – Licenses – Edward Lawton** – Mr. Lawton came before the Board to discuss his recent increase in raw milk plate count being over the state allowed limit.

The Board stated that on April 8, 2013 The Board of Health received notice from the state that Mr. Lawton's raw milk was at a 600,000 plate count which was way over the limit. The Board wanted to discuss with Mr. Lawton why their phone calls and letters were not answered asking if his clientele had been notified of this. The Board stated to Mr. Lawton that their concern was for the public health.

Mr. Lawton stated that this is a vague area and that the Board of Health has no right to put regulations on his business. Mr. Lawton stated that only the Department of Public Health and the Department of Agriculture are the only agencies he needs to notify.

The Board disagreed with Mr. Lawton and tabled the meeting to reopen this matter at a later date when representatives from the Department of Public Health (DPH) and Department of Agriculture (DAR) could come before the Board explaining what exactly their role is in regards to Mr. Lawton.

8:56 p.m. The Chairman declared the matter of Lawton's Farm closed and to be reopened at a later date.

8:57 p.m. Motion made by Eric Arvedon to pay the following bills:

FY 2013	The ARC South Norfolk – May Fees	\$ 812.83
	Pauline Clifford May Phone Bill & Mileage	\$ 157.92
	Kevin Duquette – May Mileage	\$ 12.43
	Health Care Options, Inc. – June Fees	\$2,187.73
	The ARC South Norfolk – June Fees	\$ 812.87

Paul Steeves seconded the motion. All in favor, motion passed, 3: yes - 0: no.

8:58 p.m. Paul Steeves made a motion to approve the May 6, 2013 minutes as written. Eric Arvedon seconded the motion. All in favor, 3: yes - 0: no.

Health Agent Updates

Health Care Options Inc. FY14 Contract – The Board signed the FY14 contract
 The Arc of South Norfolk FY14 Contract – The Board signed the FY14 contract

9:30 p.m. Motion made by Eric Arvedon to adjourn. Paul Steeves seconded the motion. All in favor, motion passed, 3: yes - 0: no.

Next meeting scheduled **July 15, 2013.**

Eric Arvedon, Clerk